

Effective 5/10/2016

72-6-112.5 Definitions -- Nighttime highway construction noise -- Exemptions -- Permits.

(1) As used in this section:

(a)

(i) "Front row receptor" means a noise-sensitive residential receptor that is:

(A) immediately adjacent to a transportation facility; or

(B) within 800 feet of a transportation facility that is within a commercial or industrialized area.

(ii) "Front row receptor" includes a residence that is contiguous to a property immediately adjacent to a transportation facility in a residential area.

(b) "Nighttime highway construction" means highway construction occurring between the hours of 10:00 p.m. and 7:00 a.m.

(2) A state highway construction project conducted on a road where the normal posted speed limit is 55 miles per hour or greater is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority.

(3) A state highway construction project conducted on a road where the normal posted speed limit is less than 55 miles per hour is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority if the department:

(a) provides reasonable written notice at least 48 hours in advance of any required nighttime highway construction to each residential dwelling located within front row receptors of the activity;

(b) determines a net community, including traveler community, benefit exists to conduct nighttime highway construction after considering the following:

(i) public health;

(ii) project completion time;

(iii) air quality;

(iv) traffic;

(v) economics;

(vi) safety; and

(vii) local jurisdiction concerns; and

(c) institutes best management noise reduction practices, as determined by the department, for front row receptors, in consultation with local government or the local jurisdictional authority for all nighttime highway construction, which may include:

(i) equipment maintenance;

(ii) noise shielding;

(iii) scheduling the most noise intrusive activities during the day; and

(iv) other noise mitigation methods.

(4)

(a) Subject to Subsection (2) or (3), a state highway project shall secure required noise permits from the local jurisdictional authority to conduct nighttime highway construction.

(b) To the extent practical, the department shall coordinate with the local jurisdictional authority during the pre-construction phase of a project to address noise exemption conditions.

(5) A local jurisdictional authority shall issue a nighttime highway construction noise permit without additional requirements to the department at the request of the department or the department's designated project agent if the requirements of Subsections (2) and (3) are met.

(6)

(a) For the exemption provided in Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing procedures:

- (i) for a local jurisdictional authority or local government to appeal the decision of the department to conduct nighttime highway construction on roads where the normal posted speed limit is less than 55 miles per hour; and
 - (ii) for the local jurisdictional authority to request that the department enforce the terms of a noise permit.
- (b) After review and upon receiving a written notice from a local jurisdictional authority that the conditions for the noise exemption permit are not met, the department shall take corrective action to ensure nighttime highway construction activities meet requirements of the local permit.

Enacted by Chapter 178, 2016 General Session